

Document #100 at 3.

For the reasons stated in Plaintiffs' briefs, the Court finds that Defendant did not assert attorney-client privilege in a timely manner and thus waived it.

The Open Meeting Law and Public Records Act provides that any attorney-client privilege available to a public entity expires three years after the communication was made. N.C. Gen. Stat. § 132-1.1(a); News & Observer Pub. Co., Inc. v. Poole, 330 N.C. 465, 471, 412 S.E.2d 7, 11 (1992) (finding the only exception to the mandate of public access to public records are "written statements to a public agency, by any attorney serving the government agency, made within the scope of the attorney-client relationship" and that "even those communications shall become public records subject to disclosure three years after the communication was received by the public agency"); MLC Automotive, LLC v. Town of Southern Pines, No. 1:05cv1078, 2007 WL 128945, at *7 (M.D.N.C. Jan. 11, 2007) ("Finally, the privileged communications are protected for only three years, after which they become public records.") Under the Public Records Act, statements made by a public entity to its attorney are not protected by attorney-client privilege. Poole, 330 N.C. at 483, 412 S.E.2d at 17 ("Under this definition only those portions of the Poole Commission meeting minutes revealing written communications from counsel to the Commission are excepted from disclosure under the Public Records Act"); N.C. Gen. Stat. § 132-1.1(a).

Here, the oral communications at issue were made over five years ago and any privilege has expired.

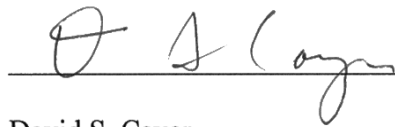
For those reasons and the other reasons stated in Plaintiffs' briefs, the Motion is granted.

IT IS THEREFORE ORDERED that:

1. "Plaintiffs' Seventh Motion to Compel or in the alternative for In Camera Review"
(document # 93) is **GRANTED**. Within ten days of this Order, Defendant shall
produce the minutes from the City Council's March 28, 2016 closed session.
2. The Clerk is directed to send copies of this Order to counsel for the parties and to the
Honorable Robert J. Conrad, Jr..

SO ORDERED.

Signed: October 5, 2021



David S. Cayer
United States Magistrate Judge

